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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,269	07/24/2003	David Delgado	14097/YOD (ITWO:0066)	9597

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EXAMINER

TRAN, LEN

ART UNIT PAPER NUMBER

1725

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/626,269

Applicant(s)

DELGADO, DAVID

Examiner

Len Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4/13/06.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 33-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 33-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/13/06 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-10 and 33-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The new amendment, “and subsequently return the heat to the welding implement” is new matter, since this feature was never describe in the specification.

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3. Claims 1-10 and 33-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to the new amendment, “and subsequently return the heat to the welding implement”, requires clarification, since applicant does not show how the heat is being returned. Examiner broadly understood that the heat is returned, since the thermal storage member is made of metal. Examiner will prosecute the claimed invention based on the mentioned interpretation.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 5, 6-9, 33-34, 36-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US ‘796).

As to claims 1, 33, 38, and 39-43, Anderson discloses a welding implement comprising a torch head, a thermal storage member (6, 24-26) adapted to absorb heat and capable of return the heat to the welding implement since it is metal.

As to claim 2, the thermal storage is metal.

As to claim 4, the thermal storage member is disposed around at least a portion of the tube.

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As to claims 5, 34, and 36, an electrical insulator (1) disposed between the tube (5) and the thermal storage member (24-26).

As to claim 6, the insulator (1) is adapted to position the thermal storage member axially along the tube.

As to claim 7, wherein the tube comprises a first conductive metal ((4) and the thermal storage member (24-26) comprises a second metal.

As to claims 8 and 37, the torch head is capable of air-cooled at 300amps and a 60% duty cycle with a temperature increase of less than 30K.

As to claim 9, the second tube (5) is disposed around a portion of the tube located proximate to the torch head.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Rehrig (US 4,354,088).

As to claim 45, Rehrig discloses a welding implement, a torch head, a conductor (18) extending from the torch head, a thermal storage member (22 and 28) disposed proximate the

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conductor and configured to absorb heat from the conductor, a protective cover (25) enveloping the thermal storage member, to prevent the user from contacting the thermal storage member (col. 3, lines 5-67).

As to claim 46, the thermal storage member is configured to absorb heat from the conductor while the conductor is conducting electricity and to subsequently return heat to the conductor while the conductor is not conducting electricity.

***Claim Rejections - 35 USC § 103***

8. Claims 10 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson US '796) as applied to claim 1 above, and further in view of Rehrig '088.

Anderson discloses the claimed invention, but lacks the mentioning of the insulator to encased the thermal storage member.

However, Rehrig discloses the insulator to fully encased the thermal storage member to prevent users from contacting the surface.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to fully encased the thermal storage member in order to prevent burning to the users.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-10 and 33-43 have been considered but are moot in view of the new ground(s) of rejection.

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***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (571) 272-1184. The examiner can normally be reached on M-F, 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Len Tran  
Primary Examiner  
Art Unit 1725



June 20, 2006